

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
ROBERT S. BEALL, Cal. Bar No. 132016
3 RUBEN D. ESCALANTE, Cal. Bar No. 244596
ADRIENNE W. LEE, Cal. Bar No. 265617
4 650 Town Center Drive, 4th Floor
Costa Mesa, California 92626-1993
5 Telephone: 714-513-5100
Facsimile: 714-513-5130
6 Email: rbeall@sheppardmullin.com
rescalante@sheppardmullin.com
7 alea@sheppardmullin.com

8 Attorneys for Defendants
EXTRA SPACE STORAGE INC. and EXTRA
9 SPACE MANAGEMENT, INC.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 TERESA ANN MARTINEZ and TIFFANY
CURTIS, on behalf of herself and all persons
15 similarly situated,

16 Plaintiff,

17 v.

18 EXTRA SPACE STORAGE INC., a Maryland
corporation; EXTRA SPACE
19 MANAGEMENT, INC., a Utah corporation;
and Does 1 through 100 inclusive,

20 Defendants.
21
22
23
24
25
26
27
28

Case No. C 13-00319 WHA

[Alameda Superior Court Case No.
RG12659084]

**~~MOTION~~, STIPULATION, AND
[PROPOSED] ORDER REGARDING
RESOLUTION OF THE DISCOVERY
DISPUTE THAT IS THE SUBJECT OF
THE COURT ORDERED MEET-AND-
CONFER AND DISCOVERY HEARING
SET FOR DECEMBER 10, 2013, AND
MOTION TO TAKE SAID MEET-AND-
CONFER AND HEARING OFF
CALENDAR**

[Local Rules 7-7, 7-11]

Complaint Filed: December 10, 2012

1 Plaintiff Tiffany Curtis ("Plaintiff") and Defendants Extra Space Management, Inc.
2 and Extra Space Storage Inc. (collectively "Defendants"), through their respective counsel of
3 record, hereby stipulate and move the Court to vacate the order that the parties appear for a meet-
4 and-confer and subsequent hearing on December 10, 2013, because they have resolved the
5 discovery dispute that is the subject thereof, as follows:

6 A. WHEREAS on December 2, 2013, Defendants filed a letter brief requesting
7 relief in connection with a discovery dispute concerning the Protective Order and Order dated
8 August 15, 2013;

9 B. WHEREAS on December 3, 2013, the Court ordered the parties to attend a
10 meet-and-confer and subsequent hearing concerning the foregoing dispute on December 10, 2013;

11 C. WHEREAS the parties have since further met and conferred concerning
12 their discovery dispute;

13 D. WHEREAS Plaintiff's counsel, Jeffrey Wilens, represents as an officer of
14 the court that prior to filing the class certification motion, he sent questionnaires to 1,000 former
15 customers of Defendants whose contact information was produced in this litigation pursuant to the
16 Protective Order and Order dated August 15, 2013; that to date only 29 of those customers
17 responded to the initial mailing, contacted Mr. Wilens, or attempted to contact Mr. Wilens
18 thereafter; that after the Court denied class certification, Mr. Wilens then sent direct
19 correspondence to those 29 customers plus Trina Sisk who had contacted Mr. Wilens on her own
20 initiative many months earlier, which informed them of their rights to intervene after denial of
21 class certification and asked them if they wanted Mr. Wilens to seek to intervene on their behalf;
22 Mr. Wilens has since filed a motion to intervene on behalf of those customers; and Mr. Wilens has
23 not been and is not in contact with any other tenants reflected on the Contact List;

24 E. WHEREAS the parties have agreed to a compromise on how to proceed
25 with respect to their discovery dispute and have resolved the same; and

26 F. WHEREAS, pursuant to Local Rule 5-1(i), Jeffrey Wilens, Attorney for
27 Plaintiffs, concurs in the filing of this document.
28

1 THEREFORE, Plaintiff and Defendants, through their respective counsel of record,
 2 stipulate and agree as follows:

3 1. Plaintiff and her counsel, Mr. Wilens, will return to Defendants within 3
 4 days of approval of this Stipulation, all documents, copies thereof, derivatives thereof,
 5 information, and anything containing, constituting, or reflecting the information produced
 6 pursuant to the Court's Order dated August 15, 2013 (the "Contact List"), which was produced
 7 subject to that Order and the Protective Order.

8 2. Plaintiff and her counsel, Mr. Wilens, shall cease and desist using the
 9 Contact List, which includes but is not limited to soliciting individuals reflected thereon to be
 10 plaintiffs in this case or any other case or contacting or responding to inquiries made by
 11 individuals reflected on that list in response to any previous correspondence sent to them by
 12 Plaintiff and her counsel, Mr. Wilens, without leave of Court;

13 3. ~~Plaintiff and her counsel, Mr. Wilens, will mail an exemplar of the initial~~
 14 ~~Questionnaire (provided the exemplar reflects the version(s) sent to the 1,000 tenants) referenced~~
 15 ~~in Paragraph D, *supra*, and an exemplar of the second letter (provided the exemplar reflects the~~
 16 ~~version(s) sent to the 30 tenants) referenced in Paragraph D, *supra*, to the Court within one court~~
 17 ~~day of request by Defendants. The documents will be mailed as if they were a chambers copy.~~
 18 ~~The documents will be submitted for *in camera* inspection only and should not be part of the~~
 19 ~~public record.~~

20 4. This stipulation does not apply to the Contact List as to the 30 individuals
 21 on whose behalf Plaintiff and her counsel, Mr. Wilens, have already filed a motion to intervene,
 22 the propriety of which Defendants reserve the right to challenge in connection with said motion or
 23 thereafter on any grounds and which information is still subject to the Protective Order and
 24 Court's Order dated August 15, 2013.

25 5. This stipulation does not alter or modify the Protective Order or Court's
 26 Order dated August 15, 2013; Defendants reserve the right to challenge Plaintiff and Mr. Wilens'
 27 conduct in connection therewith.

MOTION, STIPULATION, AND [PROPOSED] ORDER

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

2 Dated: December 6, 2013

